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10/678,464	10/03/2003	Kirk Michael Bresniker	200208654-1	3328
22879 7590 09/19/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER NGUYEN, THUY-VI THI				
ART UNIT 3689		PAPER NUMBER		
NOTIFICATION DATE 09/19/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/678,464

Applicant(s)

BRESNIKER ET AL.

Examiner

THUY VI NGUYEN

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is response to the applicant's communication filed on 06/23/08, wherein:

Claims 1-20 are currently pending;

Claims 1, 8, and 17 have been amended;

On 06/23/08, the amended claims are as followed:

1. (Currently Amended) A rack equipment management information coordination method comprising:

formulating a rack equipment management plan, wherein said rack equipment management plan is a plan for managing rack equipment while said rack equipment is in operation;

~~directing automatic~~ automatically detecting rack equipment description information ~~detection~~; and storing ~~[[the]]~~ said rack equipment description information and said rack equipment management plan.

8. (Currently Amended) A rack equipment information coordination system comprising:

an equipment description information repository for tracking equipment description information;

a management plan information repository for tracking rack equipment management plan information, wherein said rack equipment management plan

information is used for managing rack equipment while said rack equipment is in operation; and

a coordination component for coordinating said equipment description information and said rack equipment management plan information.

17.(Currently Amended) A computer system comprising:

a means for communicating rack equipment related information for managing rack equipment while said rack equipment is in operation;

a means for storing said rack equipment related information and instructions ~~including instructions~~ for implementing rack equipment information coordination; and

a means for processing information and instructions, wherein said means for processing information and instructions is configured for processing said instructions and is configured for processing information for managing said rack equipment information coordination ~~including said instructions and information for managing rack equipment information coordination.~~

Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 are reject under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101

process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to claims **1-7**, the claim language does not transform the underlying subject matter and the process is not tied to another statutory class. The process steps of *formulating a rack equipment management plan, detecting rack equipment description information, and storing the rack equipment description information* is not tied to another statutory class, such as an apparatus, and thus, the claims are directed to nonstatutory subject matter.

Claims 8-16 are rejected under 35 U.S.C. 101 because the claims deal with a rack equipment information system containing software and do not meet any of the statutory items such as process (method), machine (apparatus), manufacture (product) or composition. The system claims appear to be an apparatus claim in a preamble "*a rack equipment information system*", however, there are no normal structures or functional elements which are required in an apparatus claim. For instant, the independent 8 recited "*an equipment description information repository, a management plan information repository, a coordination component*" are appear to be software. Therefore, the claims are directed to nonstatutory subject matter.

Claims 17-20 are rejected under 35 U.S.C. 101 because the claims deal with a computer system containing software and do not meet any of the statutory items such

as process (method), machine (apparatus), manufacture (product) or composition. The system claims appear to be an apparatus claim in a preamble "*a computer system*", however, there are no normal structures or functional elements which are required in an apparatus claim. For instant, the independent 17 recited "*means for communicating rack equipment information, means for storing the rack equipment; and means for processing information and instructions*" all appear to be software. Therefore, the claims are directed to nonstatutory subject matter.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 17-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for independent claim 17, the limitation recited "a means for communicating rack equipment related information for managing rack equipment while said rack equipment is in operation". It is unclear to the examiner of how the rack equipment is managed by a means for communicating rack equipment.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hougen et al (US Patent Application Publication, US 2003/0036983).

Regarding claim 1, Hougen et al disclose a rack equipment management information coordination method comprising:

formulating a rack equipment management plan, wherein said rack equipment management plan is a plan for managing rack equipment while said rack equipment is in operation [*...a management plan such as managing the configuration of a facility layout including equipment racks; see par. 0008 and figures 1 and 2;*]. Hougen also discloses an existing facility (40) (par. 0041, 0042 and figure 2) which is determined as the equipment is in operation, e.g. "*the equipment racks included in an existing facility that are to be moved to another facility or for new equipment racks that are to be included in the facility under consideration for configuration management*".

Furthermore: the limitation "wherein said rack equipment management plan is a plan

for managing rack equipment while said rack equipment is in operation" is non functional descriptive material and is given no patentable weight. See MPEP 2106.01.

automatically detecting rack equipment description information [...*equipment description such as equipment manufacturer, equipment model and equipment details*; see par. 0043, lines 1-14; figures 3 (step 90), 4, 7-8 and 11]; These data equipments are automatically detected or tracked; e.g. see pars. 0051, 0053 "*....the inventory data resides in several forms such as Oracle database, separate digital photographs, separate AutoCAD drawing on various servers...*"

storing the rack equipment description information and said rack equipment management plan [...inventory database 12 and 18; see par. 0043, lines 16-21 and figure 1].

Regarding claim 2, Hougen et al disclose further comprising retrieving possible performance level settings from rack equipment [...for example different level of power consumption, weight and heat of rack equipment; see par. 0053, lines 10-29 and figures 18A-B, 19A-B].

Regarding claim 3, Hougen et al disclose a rack equipment information coordination method of Claim 2 wherein said possible performance level settings from rack equipment include wattage settings [see par. 0053, lines 25-29 and figure 19B].

Regarding claim 4, Hougen et al disclose wherein rack equipment management plan includes management objective guidelines [...for example user guide or installation guide; see par. 0054, lines 15-21].

Regarding claim 5, Hougen et al disclose wherein said rack equipment management plan includes power and thermal budget guidelines [...power consumption and heat are calculated which is considered as determine the budget level based on the calculation; see par. 0053, lines 25-29 and figure 19B].

Regarding claim 6, Hougen et al disclose wherein formulating said rack equipment management plan further comprises interfacing with a service agreement application [...enables used of the drawings, photographs from Auto CAD and text; see par. 0007, lines 1-17]

Regarding claim 7, Hougen et al disclose further comprising integrating said rack equipment description information with said rack equipment management plan [...rack equipment description information such as rack identification number, elevation, barcode number, model, serial number; see par. 0054, lines 9-13].

Regarding claim 8, Hougen et al disclose a rack equipment information coordination system comprising:

an equipment description information repository for tracking equipment description information [...equipment description such as equipment manufacturer and equipment model are stored in inventory databases 12, 18; see par. 0043, lines 9-21 and figure 1];

a management plan information repository for tracking rack equipment management plan information, wherein said rack equipment management plan information is used for managing rack equipment while said rack equipment is in operation [...record equipment and system layout which is stored in database 12 and

18; see par. 0046 and figure 2]; Hougen also discloses an existing facility (40) (par. 0041, 0042 and figure 2) which is determined as the equipment is in operation, e.g. "*the equipment racks included in an existing facility that are to be moved to another facility or for new equipment racks that are to be included in the facility under consideration for configuration management*"; and

a coordination component for coordinating said equipment description information and said rack equipment management plan information [...a coordination component such as Auto CAD, Microsoft Internet Explorer, Microsoft Access and /or Visual Basic software; see par. 0007, par. 0039].

Note: Manner of operating the device or elements of the device, i.e. recitation with respect to the manner in which a claimed apparatus is intended to be employed/used, does not differentiate apparatus from the prior art apparatus. *Ex parte Masham*, 2 USPQ2d 1647 (BPAI, 1987).

This is an apparatus claim and intended use limitation for the system/device or apparatus, i.e. "for tracking equipment description information (step a); wherein said rack equipment management plan information is used for managing rack equipment while said rack equipment is in operation (step b); for coordinating said equipment description information and said rack equipment management plan information (step c) are merely intended use of the devices or section thus carrying no patentable weight.

Regarding claim 9, Hougen et al disclose wherein said equipment description information repository stores information associated with features and characteristics of rack equipment and support equipment [...for example equipment model, equipment

manufacturer, photos of equipment, power consumption; see par. 0043, lines 9-19; par. 0053, lines 22-26].

Regarding claim 10, Hougen et al disclose wherein said equipment description information repository stores information indicating possible operation settings of rack equipment [...for example different level of power consumption, weight and heat of rack equipment; see par. 0053, lines 10-29 and figures 18A-B, 19A-B].

Regarding claim 11, Hougen et al disclose wherein said equipment description information repository stores information indicating rack equipment is capable of operating at varying power levels and corresponding heat generated at each level [...for example different level of power consumption, and heat of rack equipment; see par. 0053, lines 10-29 and figures 18A-B, 19A-B].

Regarding claim 12, Hougen et al disclose wherein said equipment description information repository stores performance level information [...for example detail of selected equipment rack, power consumption and heat level; see par. 0053, lines 16-17, lines 26-26].

Regarding claim 13, Hougen et al disclose wherein said management plan information repository tracks management policy and guideline information associated with a rack equipment management plan [...managing the configuration of a facility layout; documentation; see par. 0008, par.0054, lines 4-5].

Regarding claim 14, Hougen et al disclose wherein policy information can provide a correlation between a trigger event and a rack equipment management

objective [...policy information indicated the level details of particular equipment; for example, each piece of equipment in a rack is labeled its level of performance like power consumption, heat, the current (Amps). It is considered that if the maximum of current of the rack is 36 Amps, then 40 Amps of total equipments are performed, then the trigger of events may occur; see par. 0009; par. 0054, lines 6-10 and figure 19B].

Regarding claim 15, Hougen et al disclose wherein said coordination component provides a correlation between policies associated with particular client and rack equipment implementing the client's applications [...user guide, installation guide form the manufacturer/client; see par. 0054, lines 15-21].

Regarding claim 16, Hougen et al disclose further comprising:

a repository management component for managing information flow to and from said equipment description information repository and said management plan information repository; and

a communication link for communicating information to and from said repository management component [see par. 0007, lines 17-20].

Regarding claim 17, Hougen et al disclose a computer system comprising:

a means for communicating rack equipment related information for managing rack equipment while said rack equipment is in operation [...for example: user computer 32, and computers 16; see par. 0038; and figure 1]; Hougen also discloses an existing facility (40) (par. 0041, 0042 and figure 2) which is determined as the equipment is in operation, e.g. " *the equipment racks included in an existing facility that are to be moved*

to another facility or for new equipment racks that are to be included in the facility under consideration for configuration management”.

a means for storing said rack equipment related information and instructions for implementing rack equipment information coordination [...database 12, 18; see par. 0045, lines 1-8; 0046, lines 1-5; figures 1-2];

a means for processing information and instructions, wherein said means for processing information and instructions is configured for processing said instructions and is configured for processing information for managing said rack equipment information coordination [...instruction of details of equipment; see par. 0054, lines 4-21; and figures 19-21].

Note: Manner of operating the device or elements of the device, i.e. recitation with respect to the manner in which a claimed apparatus is intended to be employed/used, does not differentiate apparatus from the prior art apparatus. *Ex parte Masham*, 2 USPQ2d 1647 (BPAI, 1987).

This is an apparatus claim and intended use limitation for the system/device or apparatus, i.e. *“for managing rack equipment while said rack equipment is in operation (step a); for implementing rack equipment information coordination (step b); wherein said means for processing information and instructions is configured for processing said instructions and is configured for processing information for managing said rack equipment information coordination (step c) are merely intended use of the devices or section thus carrying no patentable weight.*

Regarding claim 18, Hougen et al disclose further comprising:

a rack equipment description retrieval module for controlling automatic retrieval of rack equipment description information [...for example inventory data module; see par. 0036; lines 15-18; and figure 1];

a rack equipment management plan module for directing establishment of a rack equipment management plan [...database management software for operate the inventory management; see par. 0039; and figure 2];

a rack equipment correlation module for providing correlation instructions to a correlation component [...online documentation associated with the selected equipment unit; see par 0054, lines 4-21]; and

an instruction saving module for directing rack equipment description information and the rack equipment management plan information saving operations [see par. 0054, lines 4-21].

Regarding claim 19, Hougen et al disclose wherein said rack equipment management plan module facilitates determination of rack equipment management objectives [see par. 0038; par. 0039]

Regarding claim 20, Hougen et al disclose rack equipment management information coordination is utilized to support a variety of rack equipment management objectives [...information coordination such as inventory databases support the completing a layout management; see par. 0044, lines 1-3].

Response to Arguments

7. Applicant's arguments filed 06/23/08 have been fully considered but they are not persuasive.

On page 7 of the remark, Applicant stated that Hougen does not teach "a rack equipment management plan, wherein said rack equipment management plan is a plan for managing rack equipment while said rack equipment is in operation. Applicant is respectfully disagrees. Hougen also discloses an existing facility (40) (par. 0041, 0042 and figure 2) which is determined as the equipment is in operation, e.g. "the equipment racks included in an existing facility that are to be moved to another facility or for new equipment racks that are to be included in the facility under consideration for configuration management". Therefore, Hougen discloses the rack equipment is in operation for the reason sated above. **Note:** the limitation "wherein said rack equipment management plan is a plan for managing rack equipment while said rack equipment is in operation" is non functional descriptive material and is given no patentable weight. See MPEP 2106.01.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-

1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689